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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 7th April 2007

No.3450-1i/15-2/2007/LE. — In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award dated the 15th February, 2007 in I.D.Misc. Case No. 3 of 2001 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial disputes between the Management of District Transport Manager (A), Orissa State Road Transport Corporation Ltd., Bargarh and its workman Sk. Kutubuddin, Conductor, OSRTC, Padmapur represented through Vice President S.T.E. Federation was referred for adjudication is hereby published as in the schedule below: —

SCHEDULE

INDUSTRIAL TRIBUNAL, BHUBANESWAR
INDUSTRIAL DISPUTE MISC. CASE No. 3 of 2001
Dated, the 15th February, 2007.

Present:

Sk. Jan Hossain, O.S.J.S.(Sr.Branch),
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

Between:

Sk. Kutubuddin, Conductor,
O. S. R. T. C.,
Padmapur.

... Complainant—Workman.

And

District Transport Manager (A),
O. S. R. T. C., Bargarh.

... O. P. — Management.

Appearances :

Shri M.C. Sahu, vice-President,
S.T.E. Federation.

... For the Complainant—Workman.

Shri D. Adhikari, Labour Welfare
Officer.

... For the O. P. —Management.

AWARD

This is a complaint under section 33-A of the Industrial Disputes Act, 1947 (for short 'Act') challenging the Order No. 10(C) in dismissing the complainant from service with effect from 17th January 2001 during pendency of I.D. Case No. 103 of 1995 in which the complainant was a concerned workman.

2. The complainant was working as a Conductor under Padmapur Zone of the O.S.R.T.C.. While working so he was detected to have carried 20 passengers without ticket in Bus No. Or-15-6027 on 16th September 2000. Treating this to be a misconduct within the Regulation of the O.S.R.T.C. he was placed under suspension and a charge sheet was served. Enquiry proceedings were initiated against him who denied the articles of charge and offered his defence. Upon conclusion of the departmental enquiry the Enquiry Officer gave his reports holding the articles of charge proved. The disciplinary authority after perusing the enquiry report and the connected records dismissed him from service w.e.f. 17th January 2001. It is averred that as the complainant was found absent in the head quarters, the dismissal order was sent in his home address by Regd. post with A.D. and one month's wages was remitted to him in his home address through money order. The Corporation thereafter filed an application u/s. 33(2)(b) of the Act. The said application was registered as I.D. Misc. Case No.1 of 2001. In that proceeding the parties led evidence in support of their case and ultimately approval u/s. 33(2) (b) of the Act was granted by this Tribunal.

3. The complainant filed application where in he has pleaded that on the date of checking there was no without ticket passengers in the bus and when the bus stopped and negotiation was going on with the passengers the Checking Officers reached the spot and demanded for checking. They gave false endorsement in the ticket book and left the spot. According to the complainant, the disciplinary authority conducted the domestic enquiry himself in a motivated manner without giving him an opportunity. Ultimately major punishment of dismissal from service was imposed on him. It is said that the enquiry was not conducted in a fair and proper manner. No independent witness was produced. The Checking Officers had not recorded the statements of the without ticket passengers and verified the cash of the conductor at the spot. It is in the reply that the past conduct of the workman was taken into consideration which was not the subject matter of the proceeding and it was not connected with the report of the Checking Officer. The punishment inflicted is disproportionate to the misconduct. The workman was a concerned workman in the dispute in I.D. Case No. 103 of 1995.

4. The complainant workman has examined himself as C.W. No. 1 and one Paresh Nath Kar as C.W. No. 2. He has also filed documents marked as Exts.1 to 8. The O.P.- Management has filed the certified copy of the order in I.D. Misc. Case No.1 of 2001 in which the authority granted approval and the certified copies of depositions of Shri R.K. Chhotray and Shri Girish Chandra Pradhan examined in the case.

5. In Misc. Case No. 1 of 2001, the Court of competent jurisdiction recorded the evidence of the witnesses and after hearing the parties granted approval u/s. 33(2) (b) of the Act. Once the approval is granted, the order becomes effective and enforceable. It has found the enquiry to be fair and proper and in accordance with the principles of natural justice. The conductor was detected to have carried 20 passengers without ticket. This conduct was highlighted by the Management and established in the enquiry. This was certainly of very grave nature. The findings on essential ingredients in the case have been recorded on the basis of materials on record. in the circumstances, it will not be appropriate for Tribunal to come to a contrary conclusion in the same facts. The punishment inflicted in this case appears to be not disproportionate to the nature of misconduct.

The application of the complainant is accordingly disposed of.

Dictated & corrected by me.

Sk. Jan Hossain,
Dt. 15-2-2001,
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

Sk. Jan Hossain,
Dt. 15-2-2001,
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

By order of the Governor

N. C. RAY
Under-Secretary to Government